

§ 1.76

37 CFR Ch. I (7–1–13 Edition)

(i) Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.

(35 U.S.C. 6; 15 U.S.C. 1113, 1126)

[31 FR 12922, Oct. 4, 1966, as amended at 36 FR 12690, July 3, 1971; 37 FR 21995, Oct. 18, 1972; 43 FR 4015, Jan. 31, 1978; 47 FR 41276, Sept. 17, 1982; 61 FR 42803, Aug. 19, 1996; 68 FR 38628, June 30, 2003; 70 FR 3891, Jan. 27, 2005; 72 FR 46836, Aug. 21, 2007; 74 FR 52688, Oct. 14, 2009]

§ 1.76 Application data sheet.

(a) *Application data sheet*: An application data sheet is a sheet or sheets, that may be submitted in a provisional application under 35 U.S.C. 111(b), a nonprovisional application under 35 U.S.C. 111(a), or a national stage application under 35 U.S.C. 371, and must be submitted when required by § 1.55 or 1.78 to claim priority to or the benefit of a prior-filed application under 35 U.S.C. 119, 120, 121, or 365. An application data sheet must be titled “Application Data Sheet.” An application data sheet must contain all of the section headings listed in paragraph (b) of this section, except as provided in paragraph (c)(2) of this section, with any appropriate data for each section heading. If an application data sheet is provided, the application data sheet is part of the application for which it has been submitted.

(b) *Bibliographic data*. Bibliographic data as used in paragraph (a) of this section includes:

(1) *Inventor information*. This information includes the legal name, residence, and mailing address of the inventor or each joint inventor.

(2) *Correspondence information*. This information includes the correspondence address, which may be indicated by reference to a customer number, to which correspondence is to be directed (see § 1.33(a)).

(3) *Application information*. This information includes the title of the invention, the total number of drawing sheets, a suggested drawing figure for publication (in a nonprovisional application), any docket number assigned to the application, the type of application (e.g., utility, plant, design, reissue, provisional), whether the application discloses any significant part of the subject matter of an application under a

secrecy order pursuant to § 5.2 of this chapter (see § 5.2(c)), and, for plant applications, the Latin name of the genus and species of the plant claimed, as well as the variety denomination.

(4) *Representative information*. This information includes the registration number of each practitioner having a power of attorney in the application (preferably by reference to a customer number). Providing this information in the application data sheet does not constitute a power of attorney in the application (see § 1.32).

(5) *Domestic benefit information*. This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and § 1.78.

(6) *Foreign priority information*. This information includes the application number, country, and filing date of each foreign application for which priority is claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and § 1.55.

(7) *Applicant information*: This information includes the name (either natural person or juristic entity) and address of the legal representative, assignee, person to whom the inventor is under an obligation to assign the invention, or person who otherwise shows sufficient proprietary interest in the matter who is the applicant under § 1.43 or § 1.46. Providing assignment information in the application data sheet does not substitute for compliance with any requirement of part 3 of this chapter to have an assignment recorded by the Office.

(c) *Correcting and updating an application data sheet*. (1) Information in a previously submitted application data sheet, inventor’s oath or declaration under § 1.63, § 1.64 or § 1.67, or otherwise of record, may be corrected or updated until payment of the issue fee by a new application data sheet providing corrected or updated information, except

that inventorship changes must comply with the requirements of §1.48, foreign priority and domestic benefit information changes must comply with §§1.55 and 1.78, and correspondence address changes are governed by §1.33(a).

(2) An application data sheet providing corrected or updated information may include all of the sections listed in paragraph (b) of this section or only those sections containing changed or updated information. The application data sheet must include the section headings listed in paragraph (b) of this section for each section included in the application data sheet, and must identify the information that is being changed, with underlining for insertions, and strike-through or brackets for text removed, except that identification of information being changed is not required for an application data sheet included with an initial submission under 35 U.S.C. 371.

(d) *Inconsistencies between application data sheet and other documents.* For inconsistencies between information that is supplied by both an application data sheet under this section and other documents:

(1) The most recent submission will govern with respect to inconsistencies as between the information provided in an application data sheet, a designation of a correspondence address, or by the inventor's oath or declaration, except that:

(i) The most recent application data sheet will govern with respect to foreign priority (§1.55) or domestic benefit (§1.78) claims; and

(ii) The naming of the inventorship is governed by §1.41 and changes to inventorship or the names of the inventors is governed by §1.48.

(2) The information in the application data sheet will govern when the inconsistent information is supplied at the same time by a designation of correspondence address or the inventor's oath or declaration.

(3) The Office will capture bibliographic information from the application data sheet. The Office will generally not review the inventor's oath or declaration to determine if the bibliographic information contained therein is consistent with the bibliographic in-

formation provided in an application data sheet. Incorrect bibliographic information contained in an application data sheet may be corrected as provided in paragraph (c)(1) of this section.

(e) *Signature requirement.* An application data sheet must be signed in compliance with §1.33(b). An unsigned application data sheet will be treated only as a transmittal letter.

[65 FR 54668, Sept. 8, 2000, as amended at 65 FR 57054, Sept. 20, 2000; 69 FR 56540, Sept. 21, 2004; 70 FR 54266, Sept. 14, 2005; 72 FR 46837, Aug. 21, 2007; 74 FR 52689, Oct. 14, 2009; 77 FR 48820, Aug. 14, 2012; 78 FR 11055, Feb. 14, 2013]

§ 1.77 Arrangement of application elements.

(a) The elements of the application, if applicable, should appear in the following order:

(1) Utility application transmittal form.

(2) Fee transmittal form.

(3) Application data sheet (see §1.76).

(4) Specification.

(5) Drawings.

(6) The inventor's oath or declaration.

(b) The specification should include the following sections in order:

(1) Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant (unless included in the application data sheet).

(2) Cross-reference to related applications.

(3) Statement regarding federally sponsored research or development.

(4) The names of the parties to a joint research agreement.

(5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see §1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified.

(6) Statement regarding prior disclosures by the inventor or a joint inventor.

(7) Background of the invention.

(8) Brief summary of the invention.

(9) Brief description of the several views of the drawing.